

In the United States District Court
For the District of Puerto Rico

The United States of America,

Plaintiff

v.

Joel Colón-Brown,

Defendant.

Cr. No.: 17-077 (JAG)

Violations: 18 U.S.C. § 2250

Sentencing Memorandum

A. Introduction

On February 9, 2017, Mr. Colón-Brown was charged with a one (1) count indictment for failure to register under the Sex Offender Registration and Notification Act, an offense which carries a maximum imprisonment term of 10 years and a supervised release term of not less than five (5) years. On May 26, 2017, Mr. Colón-Brown pled guilty pursuant to a *Rule 11(c)(1)(C) plea agreement*. The sentencing hearing was set for October 6, 2017, before this Honorable Court. Due to the aftermath of Hurricane María, the sentencing hearing was vacated¹. Mr. Colón-Brown respectfully requests this Honorable Court to accept the *Type C* plea agreement reached between the parties and sentence him to 10 months of imprisonment.

B. Mr. Colón-Brown's history and personal characteristics

¹ See Docket No. 39.

Mr. Colón-Brown is 62 years old. Ever since his prior conviction for sexual battery, he has endured difficult times. Designated as a sex predator, Mr. Colón-Brown has faced discrimination, judgements, and has even been rejected by his own family. Before returning to Puerto Rico, Mr. Colón-Brown was homeless, living under a bridge in Florida for several months. He did not had anyone to look after him.

Mr. Colón-Brown has suffered a great amount and feels repentant for his actions. He is deeply affected, as his previous behavior had serious repercussions on his life. He served a 15-year sentence and was designated by the courts as a sex predator. As a result, he must register as a sex offender for the rest of his life. At the moment of his arrest, Mr. Colón-Brown was living alone in Fajardo, Puerto Rico, in a house which belongs to his family. Mr. Colón-Brown underwent a traumatic episode at age nine (9), where a neighbor attempted to sexually molest him. Said incident was not reported to the authorities nor did he received psychological treatment. During his current confinement at MDC Guaynabo, Mr. Colón-Brown has been suffering from chest pains, pain in his throat and avers he is also losing his vision.

Mr. Colón-Brown does not have frequent communication with his family. His siblings, who live in Puerto Rico, do not look after him. Mr. Colón-Brown has seven (7) children out of three (3) different relationships. They all live in the United States. He has approximately 20 grandchildren and recently had his first great granddaughter. Unfortunately, he maintains contact only with four (4) of

his seven (7) children. Two (2) of his children, Jennifer and Heriberto, support him and care about him. His relationship with his other children was permanently damaged due to his previous conviction.

Mr. Colón-Brown was born and raised in Ceiba, Puerto Rico. He comes from a modest, hardworking family. His parents were religious and took him to a Christian church. Both of his parents passed away. Mr. Colón-Brown has a third grade education. He is illiterate and only knows how to write his name. From the moment he left school, Mr. Colón-Brown has been working. This is his only hobby. He has worked as a fisherman, in construction, as a driver, in electricity, plumbing, gardening, picking up metals, among other odd jobs.

Mr. Colón-Brown accepted responsibility and feels repentant for his actions. He knows that he must register once he gets released from prison. He is emphatic that he will be careful about it. Although not registering upon his return to Puerto Rico, Mr. Colón-Brown was not absconding from the authorities. He was in constant contact with the government, since he was doing efforts to obtain his driver's license, social security and welfare. Upon release, Mr. Colón-Brown wishes to return to Fajardo. He is esteemed by everyone in his community. He helps them by performing odd jobs around. Mr. Colón-Brown does not use controlled substances and does not represent a danger to the community. His daughter, Ms. Jennifer Colón, asserts that his father came out of prison rehabilitated.

C. Guidelines' Calculations

Mr. Colón-Brown faces a United States Sentencing Commission Guidelines Manual's (hereinafter "USSG") Base Offense Level of 14. *See* USSG §2A3.5(a)(2).² However, since the defendant clearly demonstrated acceptance of responsibility for his offense, a two (2) level decrease is warranted pursuant to USSG § 3E1.1(a), for a Total Offense Level of 12. With a Total Offense Level of 12 and a Criminal History Category of I, the USSG recommend a sentence of 10-16 months of imprisonment.³

Mr. Colón-Brown respectfully requests this Honorable Court to accept the *Type C* plea agreement reached between the parties and sentence him to 10 months of imprisonment. The defendant's history and personal characteristics, and the nature and circumstances of the offense warrant such a sentence. The time that Mr. Colón-Brown will be incarcerated is enough punishment to reflect the seriousness of the offense. His sentence will promote respect for the law and will provide just punishment for the offense. The sentence will also afford adequate deterrence to criminal conduct and will protect the public from further crimes of the defendant.

Bearing in mind the factors to be considered in imposing a sentence under 18 U.S.C. § 3553 and the information stated above, Mr. Colón-Brown respectfully

² The defendant was required to register as a Tier II offender.

³ The defendant has a Criminal History Category of I. His prior criminal record consists of a conviction sentence back on June 9, 1999. According to the USSG's §4A1.2(e), any prior sentence of imprisonment exceeding one (1) year and one (1) month that was imposed within 15 years of the defendant's commencement of the instant offense is counted. Therefore, the defendant's prior conviction does not count for Criminal History points, since said conviction is not within 15 years of the commencement of the instant offense.

requests this Honorable Court to **impose a sentence of 10 months of imprisonment**, a sentence sufficient but not greater than necessary to serve the goals of sentencing.

WHEREFORE, the defendant, Mr. Colón-Brown, respectfully requests this Honorable Court to take note of this sentencing memorandum and sentence him to 10 months of imprisonment.

I HEREBY CERTIFY that on this date I electronically filed the present motion with the Clerk of the Court using the CM/ECF system which will send electronic notification of said filing to all parties of record.

Respectfully submitted.

In San Juan, Puerto Rico, this 17th day of October, 2017.

Eric A. Vos
Federal Public Defender
District of Puerto Rico

S/ Edwin A. Mora Rolland
Edwin A. Mora Rolland
Assistant Federal Public Defender
USDC-PR 304603
241 F.D. Roosevelt Avenue
Floor 3
San Juan, Puerto Rico 00918-2305
(787) 281-4922 Ext. 262
edwin_mora@fd.org